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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,190	11/25/2003	Luca Pusterla	6023-170US (BX2390M)	7927
570	7590	05/07/2004	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103-7013			WACHSMAN, HAL D	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/722,190	Applicant(s) PUSTERLA ET AL.	
	Examiner Hal D Wachsman	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-8 is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-25-03</u> . | 6) <input type="checkbox"/> Other: _____ |

1. This application is in condition for allowance except for the following formal matters:

a) A Preliminary Amendment was filed on 11-25-2003 consisting of two pages, the second page being indicated as a Remarks section. The Examiner wants to confirm with the Applicant that what came with this two page Preliminary Amendment were separately page numbered substitute specification and marked-up copy of the specification as well as a marked-up copy of claim amendments along with a clean copy of the claims that incorporate these claim amendments and a marked-up copy of the Abstract with clean copy of the Abstract that incorporates amendments shown in the marked-up copy so as to ensure that the image file wrapper has all the pages/papers filed in the Preliminary Amendment.

b) The drawings are objected to because labeling (i.e. in words) is needed in Figure 1 so as to facilitate an understanding of the invention from the drawings. In addition, the drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the method for measuring a concentration of water in the gas mixture (i.e. such as in a flow chart) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

c) The listing of references in the specification (see page 2 of the specification, Eiceman and Karpas reference) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

d) The Abstract is objected to because it contains legal phraseology (i.e. "...including the followings operative steps:..."). In addition, "IMS" has not been defined and the reference numerals/letters in parentheses in various locations of the Abstract are not needed and should be deleted. Appropriate correction is required.

e) The incorporation by reference of PCT/IT02/00370 and WO 02/099405 A2 on page 1 of the specification, are improper under MPEP 608.01(p) because essential material cannot be incorporated by reference to patents or applications published by foreign countries or a regional patent office. Appropriate correction is required.

f) The paragraph numbering on page 4 of the substitute specification is incorrect because several different paragraphs between paragraph numbers 0017 and 0018 have no paragraph numbering. Appropriate correction is required.

g) Page 4, lines 22, 23, state "...Other features of the method are disclosed below and in the dependent claims." However, did the Applicant intend to refer here to the claims after the specification in general ? Appropriate correction is required.

h) The Examiner respectfully notes grammatical errors on page 6, lines 1 and 5: "...according the..." (i.e. the word "to" is missing before "the").

i) Claims 1-8 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Throughout the claims are reference numerals/letters in parentheses which are not necessary and should be deleted. Claim 1, line 3, cites "a gas mixture" however is this a gas mixture of the argon, hydrogen, nitrogen and helium cited in the preamble of the claim ? Claim 7, cites "the operative parameters further comprise an electric field ..." however was this actually referring to a parameter associated with the electric field ? The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

2. The following references are cited as being art of general interest: Danylewych-May et al. which disclose the monitoring of the concentration of water vapor in an ion mobility spectrometer, Yang et al. which disclose using an ion mobility spectrometer to


identify the presence and quantity of specific gases and Clemmer which discloses an ion separation instrument.

3. Claims 1-8 are allowable over the prior art because the prior art does not disclose or suggest: determining two time intervals corresponding to drift times in an ionization mobility spectrometry instrument of H_3O^+ and $(\text{H}_2\text{O})_2^+$ ions present in a gas mixture; obtaining peaks of the signal in the two determined time intervals; and calculating the water concentration in the gas mixture according to a ratio of intensity of the two peaks obtained in the signal.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
May 2, 2004